Supreme Court, U.S.
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No. (1)

In the Supreme Court of the United States

LILLIE J. HURD,
Petitioner,

v.

RALPH ALEXANDER, et al.,
Respondents.

On Petition for a Writ of Certiorari to the Supreme Court of the State of California

PETITION FOR WRIT OF CERTIORARI

LILLIE J. HURD
Petitioner pro se

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QUESTIONS PRESENTED

[1] Can a Special Verdict Judgment move forward without an Order?

[2] Is a Special Verdict trial the same as a General Verdict trial?

[3] If the LOWER COURT Amended a Special Verdict Judgment without an Order (two months after the original judgment was entered), shouldn't the jury be called back to court by way of an Order to hear the newly added "changes" (modification)?

[4] Can the LOWER COURT alter a JUDGMENT without an Order and call it an "Amendment?"

[5] Can the LOWER COURT amend a Special Verdict by an ORDER GRANTING MOTION FOR JUDGMENT OF NON-SUIT even though the NON-SUIT was a cross-action suit that was time-barred while at the same time was not a part of the Special Verdict Judgment inasmuch as the matter was heard during the Special Verdict trial (June 9, 2004)?

[6] If the LOWER COURT engaged in discretionary abuse of power during trial and it is discovered only after "(June 14, 2004) and not made available to all parties of record as well as to the jury, is this concealment of information harmful to Plaintiff and to the truthfulness of the Judicial system where equal justice under law is THE LAW?

[7] Can a Judge arbitrarily decide not to answer a "Jury Request?"

[8] Can a "File Stamped" pleading be concealed in a "CONFIDENTIAL" folder labeled "Notes," when the documents should be in a document file for public view as all other case related pleadings?

[9] Can the LOWER COURT meet privately with a DEFENDANT and wife in an action, exclusively in a closed chambers meeting for 45 minutes, and then Order Plaintiff to sit in courtroom while meeting one-on-one with Defendants about a settlement agreement offer prior to a trial without giving Plaintiff the same privilege when requested by Plaintiff's attorney of record?

[10] When production of documents from a Federal case is denied by OPM, can any available information be used during a Special Verdict jury trial for the sole purpose of prejudicing the jury during trial, realizing from the beginning of trial that the information would be thrown out due to statute of limitation rules?

[11] Can a Special Verdict Jury trial go forward without a prior settlement agreement hearing where the stipulations and settlement are in writing?

[12] Are mediators and arbitrators allowed to referee cases where the award sought is more than $50,000?

LIST OF PARTIES AND AFFILIATES

Pursuant to Rule 14.1, the following list identifies all of the parties who participated in the matter.

LILLIE J. HURD	PLAINTIFF
RALPH ALEXANDER	DEFENDANT
MARJORIE ALEXANDER	DEFENDANT
ALEXANDER & SON	DEFENDANT
GLEN A. DERONDE	DEFENDANTS' Attorney (convicted of moral turpitude and battery in unrelated case and son of a Solano County Judge, now deceased)
FRANKLIN R. TAFT	JUDGE (Ret.; not presiding on matter after May 2004)
HARRY S. KINNICUTT	JUDGE (HEARD CASE DUE TO TAFT RETIRING)
BRUCE VAN VOORHIS	(REMOVED FROM BENCH BY JUDICIAL COUNSEL AFTER PLAINTIFF'S COMPLAINT WAS FILED, BUT HEARD AND MADE RULING ON 170.1 PEREMPTORY CHALLENGE OF JUDGE TAFT PRIOR TO LEAVING BENCH)

CLINTON A. JOHNSON, ESQ	TEMPORARY ATTY FOR PLAINTIFF LILLIE HURD
MARTIN J. AMBACHER	ATTY FOR CROSS-COMPLAINANT LILLIE HURD

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OPINIONS BELOW

The decision of the California Court of Appeals dismissing the appeal is at 1a. The Order denying rehearing is at App. 5a and the Order denying petition for review en banc is at App. 9a.

JURISDICTION

This Court has Jurisdiction under 28 U.S.C. §1254(1).

RELEVANT RULES OF THE CASE

Rule 122. Time of filing notice of appeal

Rule 123. Extension of time and cross-appeal
(a) [New trial proceeding] CCP §647

Rule 2. Time to appeal
(a) Normal time
(b) No extension of time; late notice of appeal
(c) Periodic payment of judgments against public entities
(d) What constitutes entry
(e) Premature notice of appeal
(1) A notice of appeal filed after judgment is rendered but before it is entered is valid and is treated as filed immediately after entry of judgment.
(2) The reviewing court may treat a notice of appeal filed after the superior court has announced its intended ruling, but before it has rendered judgment, as filed immediately after entry of judgment.
(f) Appealable order As used in (a) and (e), "judgment" includes an appealable order if the appeal is from an appealable order.

Rule 2.5. [Repealed 2002]

Rule 3. Extensions of time to appeal

(a) Motion for new trial If any party serves and files a valid notice of intention to move for a new trial and the motion is denied, the time to appeal from the judgment is extended for all parties until the earliest of:

(1) 30 days after the superior court clerk mails, or a party serves, an order denying the motion or a notice of entry of that order;

(2) 30 days after denial of the motion by operation of law; or

(3) 180 days after entry of judgment.

(c) Motion for judgment notwithstanding the verdict

(1) If any party serves and files a valid motion for judgment notwithstanding the verdict and the motion is denied, the time to appeal from the judgment is extended for all parties until the earliest of:

(A) 30 days after the superior court clerk mails, or a party serves, an order denying the motion or a notice of entry of that order;

(B) 30 days after denial of the motion by operation of law; or

(C) 180 days after entry of judgment.

(2) The time to appeal from an order denying a motion for judgment notwithstanding the verdict is governed by rule 2, unless extended by rule 3(e)(2).

(d) Motion to ~~reconsider~~ appealable order If any party serves and files a valid motion to reconsider an appealable order under Code of Civil Procedure section 1008, subdivision (a), the time to appeal from that order is extended for all parties until the earliest of:

(1) 30 days after the superior court clerk mails, or a party serves, an order denying the motion or a notice of entry of that order;

(2) 90 days after the first motion to reconsider is filed; or

(3) 180 days after entry of the appealable order.

FACTUAL BACKGROUND

PETITIONER was married for over twenty years to Odell Hurd and the union produced two beautiful daughters. Due to irreconcilable differences, the marriage with Odell Hurd was terminated without formal dissolution and the parties agreed for the sake of their children, complexity and expense in litigation of separating the accumulated assets, that they would remain married.

PETITIONER was now looking to get involved in a business venture and the new challenges life had in store for her when she met Ralph Alexander henceforth referred to as RESPONDENT. When Plaintiff met RESPONDENT, he and his business was **insolvent and the IRS** was preparing to close down DEFENDANT'S failed business called Alexander and Son, and foreclose on all RESPONDENT'S real property, which were one single unit, one four-unit complex, and a vacant lot. He was not married to his present wife, Geraldine Alexander, at the time, but to another woman. Petitioner and Respondent worked together to pay all debts and bought wife, Geraldine Alexander a home. Then Geraldine gave Ralph Alexander a divorce. This all took approximately eight years.

PETITIONER took risks and became the RESPONDENT'S equal business partner in order to turn around a then defunct business and make it what it is today, where, due to the prudent and frugal business practices of Plaintiff, nine single units were acquired, as well as two complexes, one with 5 units, and the other twelve. There were eight bank accounts where BOTH Plaintiff and Defendant shared equal access and liability.

PETITIONER infused Alexander and Son with cash and immediately took over all MANAGEMENT OPERATIONS, BOOKKEEPING, LEGAL PREPARATION, ADMINISTRATIVE ASSISTANCE, ACCOUNTING, DIRECTOR OF OPERATIONS, MANAGEMENT, MARKETING PROMOTIONS, and would contribute physical labor to the business to see it become successful. Plaintiff did not do this for room and board. She is not an illegal immigrant nor is she an indentured servant; slavery in her family ended with her maternal and paternal great grandparents.

RESPONDENT'S back was up against the wall and the IRS was literally at his home to seize property and close the business; RESPONDENT decided that making PETITIONER an equal partner was not only the best choice but the only logical choice. A pact was made and in return for PETITIONER'S efforts, DEFENDANT agreed that PETITIONER would share and share receive ½ of business profits. After all, what else could he possibly have to lose since the RESPONDENT lost faith in himself and his failed business?

It was no miracle that PETITIONER was able to single-handedly make arrangements with the IRS to stop any property liens and penalties due to an honest deal she made with the IRS on Defendant's behalf.!

"I PROMISE TO PAY EVERYTHING OFF WITHIN DUE TIME IF YOU JUST GIVE ME ONE CHANCE, SIR! "As a result of the plea, and the one chance she was given by the IRS who decided to see if PETITIONER could turn around the business and pay off all back taxe debts and get DEFENDANT back on track, Plaintiff prevailed. Plaintiff has always been a woman of her word, which is all a majority

of Black people have, and she put her money where her mouth was. Defendant could not do that. White America has made that possible in many circumstances for Black males, but, the RESPONDENT in this matter had no excuse other than to plan a crafty and deceptive bail out once he achieved his financial goals in life. PLAINTIFF was unaware of RESPONDENT'S masterful behavior and did not imagine in this life-time that this mild-mannered man would stoop so low. Petitioner offered Respondent a life from the forbidden America for "Black people only." He accepted "the life," and now he is trying to take hers to a level usurped by emotional and economic thievery.

PETITIONER paid off all back taxes, paid off Small Business Administration loan, paid off all liens, and all furniture bills, etc. It was not easy since during the partnership, PETITIONER would have to continuously go into debt herself as PETITIONER would borrow funds from her mother and even her grown children in amounts as small as 5000.00 and large as **$25,000** all in an effort to make ends meet and keep her new business and partner afloat. **(In today's time we call this a Super Woman)**

Twenty years henceforth (2000) is where trouble in paradise begins. The RESPONDENT decided that the partnership assets and real property accumulated over the years would stay in RESPONDENT'S name due to the fact that PETITIONER'S estranged husband declined not to cooperate and quit claim interest acquired in any of the property she acquired in the partnership with the RESPONDENT, and because the RESPONDENT'S wife agreed to sign off after all debts were paid and give her a home "free and clear" the parties decided to simply keep all properties accumulated in RESPONDENT'S name solely until they retired from their efforts. At that time PETITIONER had

no reason to distrust RESPONDENT since he had kept his word on things they had done over the twenty years therefore having no reason to doubt him at his word.

Ultimately RESPONDENT got greedy and decided to KEEP IT ALL after he subsequently married in the year 1999 to a woman who now shares with him interests in this case. Why would a once honorable marine turn coat like this?

In the year 2000, RESPONDENT terminated the relationship with Petitioner and unbelievably denied PETITIONER any ownership interest or money in any thing the PETITIONER helped to create during their twenty (20) year partnership!

PETITIONER rightfully filed suit in Court to protect her 50% ownership interest in the partnership and assets. At the close of trial, due to Judicial misconduct, abuse of discretionary power, tampering with jury instructions, concealing Jury Requests and Responses to Jury Requests by enclosing filed stamped documents in an envelope marked "Confidential Notes," attorney malfeasance, acts of moral turpitude, and a conspiracy to thwart justice, PETITIONER was outrageously denied any interest whatsoever in the partnership assets!

STATEMENT OF THE CASE

The COURT AMENDED the original JUDGEMENT two months 7 days after entry, with no explanation as to what, how, or why a Judgment did not have Orders written or filed prior to any post-judgment action. Although the courts have the power to amend judgments and orders, this was a special verdict judgment that has a different set of rules whenever a judge makes an amendment to such. There were never any

Orders or post-judgment orders filed with the court. The only Orders filed were "minute orders."

The lower courts then collected in excess of **$35,000 dollars from the PETITIONER only to then collect another $1000 in fees. The courts sent PETITIONER confirmation of oral argument and then (pulled the rug from under PETITIONER) and** claimed that PETITIONER filed untimely and that the appeals court had no jurisdiction over the case and denied the PETITIONER'S position.

The courts apologized for taking $35,000 from PETITIONER due to their alleged error of collecting the fees. Usually if a person is late in filling an appeal they are not allowed to even get past the filling fees. After the courts do their research they then contact you if it is ok to proceed. It was ok to proceed and the courts collected the $35,000 only to tell PETITIONER one year later that her case was denied for review on the grounds that they didn't have jurisdiction over the case.

This case failed Petitioner when errors of law continued on top of new errors of law. Errors chased by errors leaves confusion, injustice, and no resolutions. The ultimate error occurred when no Orders or Post-judgment Orders were signed after the Special Verdict Judgment. Respondents' attorney of record arbitrarily chose to take Orders from the Judgment of Non-suit Judgment, and run with it. The award to Respondents by way of this Order WAS NOT $25,000. When Respondents' attorney filed a memorandum of costs for amounts in excess of $25,000, there were costs that were from arbitrators, mediators, and referees from both the cross-complaint and the plain complaint. This attorney had no Order to do this. Petitioner was going to appeal the Special Verdict of 14 June 06, but was side-tracked because of the

newly filed memorandum of costs that had figures intertwining all actions. The monetary award sought by Petitioner was over four million dollars. The Lower Court Judge Taft) Ordered arbitration just to get their friends paid for doing nothing but abuse discretionary power. Their actions were so bogus that they never complained about getting paid. It was Judge Kinnicutt who Ordered Petitioner to pay over $5,000 or else she could not go to trial. A miscarriage of justice, indeed.

REASONS FOR GRANTING THE PETITION

1. THE COURT IMPROPERLY ALLOWED A TRIAL WITHIN A TRIAL ON A FEDERAL ISSUE OF PETITIONER'S ALLEGED UNCHARGED BAD ACTS WITH THE FEDERAL GOVERNMENT.

During trial, the courts allowed the Respondents to proffer testimony from a person who was deemed a federal government expert witness when in fact this witness was not an expert at all, and was a mere ex-employee who worked for the federal government and had knowledge of their procedures. This witness had absolutely no consent or authority to be testifying on behalf of the federal government nor did he have their consent or knowledge. This witness was a mere long term retired employee of the government who admitted to being paid $5000 if he would testify and fly to California from his home state to discuss his knowledge about the federal government. The obvious effect of allowing a trial within a trial on the otherwise irrelevant issue of unrelated bad acts attributed to mere allegations of the PETITIONER obtaining a FEDERALLY SEALED DEAL made between the FEDERAL GOVERNMENT and PETITIONER some 24 years ago.

The first inquiry under Evidence Code section 1101, subdivision (b) is whether this evidence goes to a material fact. (*People v. Robbins*, *supra* 45 Cal.3d at p. 879.) The second inquiry is whether the offered evidence would tend in reason to prove the material fact. (*Robbins, supra.*) The offered evidence did not remotely prove any material facts in this case despite the fact the FEDERAL GOVERNMENT sent written notice closing the subject matter once and for all.

The US code clearly provides that jurisdiction to determine any violation of the applicable federal OPM laws are exclusively vested in the OPM and no other courts, however the lower courts stated, **"this is my court room and I don't see why they even made a deal with you (PETITIONER) so I'm allowing it"** It was plain error to allow this evidence under USC Section 8331 and allowing such evidence to be introduced was in excess of the trial court's jurisdiction. (Please *see San Francisco v. Superior Court*, 53 Cal.2d 236, 244 (1959); *Santa Barbara School District v. Superior Court*, 3 Cal.3d 315, 338 (1975); 4 Witkin California Procedure, 4th Ed. Allowing highly prejudicial evidence of uncharged bad acts and allowing expert testimony on the issue was an intentional abuse of discretion.

2. THE LOWER COURTS ALLOWED PREJUDICIAL EVIDENCE TO BE INTRODUCED TO THE JURY REGARDING TIME BARRED TORT CLAIMS

Usually allowing or excluding evidence is within the discretion of the trial court judge, a motion to exclude any evidence on a any particular claim is subject to independent review. (*Aas v. Superior Court*, 24 Cal.4th 627, 634 (2000).) As an artifice to introduce derogatory and prejudicial evidence against PETITIONER to the jury, RESPONDENTS

were allowed to prosecute and present unsubstantiated and damaging testimony to the jury that the COURTS and opposing counsel specifically knew was time barred tort claims all of which the claims were strategically dismissed on Non-suit only after the jury was able to hear the damaging testimony and then told to disregard the hours of evidence they heard from multiple paid witnesses at the end of the long trial.

Motions to dismiss are at the court's discretion, (*Salas v. Sears, Roebuck & Co.*, 42 Cal.3d 342, 346 (1986); *Denham v. Superior Court*, 2 Cal.3d 557, 564 (1970). however, that discretion is not unfettered. It cannot be exercised arbitrarily, but must be an impartial discretion to be exercised in conformity within the spirit of the law and in manners to subserve the ends of substantial justice. (*City of Los Angeles v. Gleneagle Dev. Co*, 62 Ca.App.3d 543, 561 (1976).) (*Board of Regents v. Tomanio*, 446 US 478, 487 (1980).) The period allowed for instituting suit inevitably reflects a value judgment concerning the point at which the interests in favor of protecting valid claims are outweighed by the interests in prohibiting the prosecution of stale ones. (*Delaware State College v. Ricks*, 449 US 259.) (*Norgart v. Upjohn Co.*,21 Cal.4th 383, 396 (1999).)

Statutes of limitations are designed to promote justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories faded, and witnesses have disappeared.

PETITIONER argued at trial that the contrived and alleged tortful conduct was admittedly by the RESPONDENTS' counsel to be stale claims, and would have no probative value, and any possible evidence even contrived is substantially outweighed by the probability that its

admission would create an undue prejudice to PETITIONER (Evidence Code section 352 (a)). Moreover, PETITIONER argued that the introduction of this obviously time-barred claims evidence would involve an undue consumption of time.

PETITIONER submits that the court intentionally erred in failing to grant PETITIONER MOTION FOR SUMMARY JUDGMENT, and allowed testimony regarding evidence on stale claims to be heard by the jury before dismissing it at the conclusion of trial. As a result PETITIONER suffered prejudice and irreversible damages. (Evid. Code, § 459, subd. (a). Evid. Code, sec. 454(b)." (2 Jefferson, Cal. Evidence Benchbook (3d ed. 1997) § 47.68, at p. 1093.)

3. THE LOWER COURTS REFUSED TO ALLOW PARTNERSHIP EVIDENCE TO THE JURY

The case law provides the intention of the parties is a primary factor in determining the existence of a partnership. "The presence or absence of any of the various elements set forth in former section 15007, including sharing of profits and losses. The rules to establish the existence of a partnership in former section 15007 should be viewed in the light of the crucial factor of the intent of the parties revealed in the terms of their agreement, conduct, the surrounding circumstances when determining whether a partnership exists." (*Holmes v. Lerner*, 74 Cal.App.4th 442, 454 (1999); *Security Pac. Nat. Bank v. Matek*, 175 Cal.App.3d 1071, 1075 (1985).

Additionally, "some degree of participation by partners in [the] management and control of the business is one of the primary elements of partnership." (*Billups v. Tiernan*, 11 Cal.App.3d 372, 379 (1970).) However, "the apportionment of duties will not affect the character of the relationship; one partner may be given the sole right of management."

(*Security Pac. Nat. Bank v. Matek*, *supra*, 175 Cal.App.3d at p. 1075.) The fact that one partner "contributed labor and skill rather than capital [and management duties] does not preclude the existence of a partnership. (*Mercado v. Hoefler*, 190 Cal.App.2d 12, 17 (1961).)

In the PETITIONER'S case, substantial and overwhelming evidence existed and was offered to support the conclusion by a court or jury that the parties established the existence of a partnership. The court, however, declined to allow the introduction of partnership evidence including many witnesses that included city officials, bank officials, public figures, et al.; who would have testified to partnership, meetings, partnership decision making, equal access and control over partnership assets and the fact that PETITIONER and RESPONDENT consistently referred to the business as a "partnership," as "our business," and as "our company."

Substantial evidence **(checks in amounts of $25,000 and up)** was offered in support of the conclusion that PETITIONER contributed capital to the partnership and the DEFENDANT'S turning over the business to Hurd to get in shape. Receipts of profits from a business is *prima facie* evidence of a partnership unless an exception applies. (Cal.Corp. Code, former section 15007, subd. (4).) In this case, while the trial court refused to allow the jury to consider the above tendered evidence and other crucial evidence , the fact that the profits and losses were shared compels a conclusion that a partnership in fact existed. Disallowing introduction of partnership evidence was plain error.

4. THE COURT ACTED IN EXCESS OF ITS JURISDICTION BY ALLOWING THE JURY TO CONSIDER "UNCLEAN HANDS" EVIDENCE CONSISTING OF UNCHARGED BAD ACTS INVOLVING OPM CLAIMS

Unlike some other jurisdictional defects, a party may, by its conduct, be estopped from contesting an action in excess of jurisdiction. The Supreme Court carefully distinguished between types of jurisdiction in *Abelleira v. District Court of Appeal*, 17 Cal. 2d 280, 109 P.2d 942 (1941). There, the court explained: "In its ordinary usage the phrase 'lack of jurisdiction' is not limited to fundamental situations. Here it may be applied to a case where, though the court has jurisdiction over the subject matter and the parties in the fundamental sense, it has no 'jurisdiction' (or power) to act except in a particular manner, or to give certain kinds of relief, or to act without the occurrence of certain procedural prerequisites" (*Id.* at p. 288) (*Id.* at p. 291; *see also* 2 Witkin, Cal. Procedure (3d ed. 1985) Jurisdiction, §§ 220 et seq.) Moreover, when a direct avenue of attack (such as appeal) is available, collateral attack on a judgment "in excess of jurisdiction" is seldom, if ever, allowed. Finally, the determination of an issue of "jurisdiction to act" (the affirmative side of the "in excess of jurisdiction" coin) is *Respondent judicata*. (*See* 2 Witkin, op. cit. supra, §§ 266-271, 287.)

Generally, judgments or orders by a court that lacks jurisdiction in the fundamental sense over the subject matter or the parties **are void.** (*Conservatorship of O'Connor*, 48 Cal.App.4th 1076, 1087-1088 (1996); *see also Carlson v. Eassa*, 54 Cal.App.4th 684, 691 (1997).) If the judgments or orders are in excess of jurisdiction, they are only voidable. (*O'Connor*, at p. 1088, & citations therein.)

Where, as here, another entity has exclusive jurisdiction over the issue, it is error to try the issue for any reason in a court with no jurisdiction over that issue. *(City and County of San Francisco*, 53 Cal.2d 236 (1959).) The trial court allowed the jury to consider alleged but unrelated and uncharged bad acts (OPM) on the issue of whether Appellant had unclean hands and whether such unclean hands bars relief. Because bad acts not related to the subject matter of the case, cannot be considered in the unclean hands defense, the court acted in excess of its jurisdiction.

5. THE COURT MISAPPLIED THE LAW OF PARTNERSHIP INCLUDING ITS PRESUMPTIONS AND BURDENS OF PROOF

Since *Marvin v. Marvin*, *supra* and revisions of the Corporations Code, the law of partnership is based on facts and reality not necessarily on paperwork. The law of partnership when boiled down to its essence states that if parties share partnership profits, act like partners, manage and conduct their business affairs like partners, then the law will treat them like partners.

In this case, after denying Appellant the presumption of partnership as reflected in *Marvin v. Marvin* and former Corporations Code section 15007(4), the court placed the implied contract standard of proof (the clear and convincing evidence test) on PETITIONER.

California's preponderance burden of proof agrees with the majority of jurisdictions. A search indicates that of the 24 states other than California that have indicated their choice of standard of proof for an oral partnership or oral joint ventures, 19 expressly or apparently use the "preponderance" standard.

A joint venture is "an undertaking by two or more persons jointly to carry out a single business enterprise for profit. [Citations.]" (*Nelson v. Abraham*, 29 Cal. 2d 745, 749 [177 P.2d 931] (1947).) "Like partners, joint ventures are fiduciaries with a duty of disclosure and liability to account for profits." (9 Witkin, Summary of Cal. Law (9th ed. 1989) Partnership, § 19, p. 418.)

The trial court, in considering what would be proper jury instructions, did not determine the existence or nature of any relationship between PETITIONER and Defendant. The court determined *sua sponte*, however, that PETITIONER had proceeded to trial solely on an oral partnership agreement or oral joint venture theory. Accordingly, the trial court left to the jury, the determination of whether such an oral joint venture agreement existed. The general rule in this state is that "[i]ssues of fact in civil cases are determined by a preponderance of testimony." (*Liodas v. Sahadi*, 19 Cal. 3d 278, 288 [137 Cal. Rptr. 635, 562 P.2d 316] (1977), citing *Ford v. Chambers*, 19 Cal. 143, 144 (1861).) The burden of proof may require a party to raise a reasonable doubt concerning the existence or non-existence of a fact or that he establish the existence or non-existence of a fact by a preponderance of the evidence, by clear and convincing proof, or by proof beyond a reasonable doubt. [para.] Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence." "Law," as referenced in section 115, includes "constitutional, statutory, and decisional law." (Evid. Code, § 160.) In light of section 115, there is no constitutional, statutory or decisional law (i.e., case law) requiring a burden of proof higher than preponderance of the evidence to establish an oral joint venture or partnership.

PETITIONER points out that sections of many California codes require that proof of an issue of fact must be by a higher degree of proof than preponderance of the evidence. The California courts have never held that the existence of an oral joint venture or partnership agreement must be established by clear and convincing evidence. *Welch v. Alcott*, 185 Cal. 731 [198 P. 626] (1921).

First, it was error to disallow the presumption in favor of PETITIONER which would have shifted the burden of proof to Respondents. Second it was error to place the burden of clear and convincing evidence on PETITIONER when this state follows the preponderance test. PETITIONER submits that if the proper standards of proof were applied a different result would have been reached by the jury. This error at law compels a new trial.

6. JUDICIAL IMPROPRIETIES, INCLUDING *EX PARTE* COMMUNICATIONS, EVIDENCED BIAS AGAINST PETITIONER

Defense counsel held a private meeting with the Trial Judge in chambers and did not reciprocate with PETITIONER counsel. On another occasion the trial judge met with Respondents privately in chambers for about 45 minutes. Not only was PETITIONER not allowed to attend this meeting, PETITIONER was ordered to sit in the courtroom while the RESPONDENTS' counsel taunted as the outrageous events unfolded. Given the serious nature of PETITIONER'S motions filed regarding judicial misconduct, PETITIONER asks that the US Supreme Court be instructed to review the entire record, and carefully examine the circumstances surrounding each specified event and considering it in the light of the entire trial as well as the other claims of error.

The importance of public confidence in the judicial system, the issue is not limited to the simple existence of actual bias. Rather, the issue is whether a reasonable person would entertain doubts concerning the trial court's impartiality. (*Hall v. Harker*, 69 Cal.App.4th 836, 841 (1999); *see Catchpole v. Brannon*, 36 Cal.App.4th 237, 245-247 (1995).) Under these circumstances, judicial misconduct warranting reversal generally involves egregious and demeaning attacks on trial counsel from the bench in the jury's presence or shows a pattern of judicial hostility permeating the record and defying a finding of no prejudice. (*See Hall v. Harker*, *supra*, 69 Cal.App.4th at pp. 841-843; *People v. Fatone*, 165 Cal.App.3d 1164, 1175-1176 (1985); *People v. Black*, 150 Cal.App.2d 494, 499 (1957).) Exhibit 4120.

Given the above, a new trial should be granted to Appellant.

7. THE TRIAL COURT'S SPECIAL INSTRUCTIONS CONFUSED AND MISLEAD THE JURY

Article VI, section 13 of the California Constitution provides that error in instructing the jury shall be grounds for reversal only when the reviewing court, "after an examination of the entire cause, including the evidence," concludes that the error "has resulted in a miscarriage of Justice."

The test of reversible error has been stated in terms of the likelihood that the improper instruction misled the jury. Thus, if a review of the entire record demonstrates that the improper instruction was so likely to have misled the jury as to become a factor in the verdict, it is prejudicial and a ground for reversal, therefore, a new trial before a different judge is appropriate in this circumstance.

(*Mock v. Michigan Millers Mutual Ins. Co.*, 4 Cal. App. 4th 306, 335 [5 Cal. Rptr. 2d 594] (1992).) There was no dispute at trial that PETITIONER and Defendant shared profits of the business for their support throughout the 20 year partnership. Both parties testified that throughout the partnership profits not used for their support were invested in real property.

Both parties testified that both shared management and control of their business. Without any citation to legal authority and without defense counsel's urging, the trial court *sua sponte* declined to allow the application of the presumption of partnership and although offered, declined to give the standard Matthew Bender jury instruction on the presumption of partnership that simply stated that the sharing of profits of a business creates a presumption of partnership.

Corporations Code Section 15007(4) provides, "Rules for determining existence of partnership.

On its own initiative, the Court added and read Subsections (2) and (3) to the proposed instruction even though no evidence was submitted to justify their inclusion.

The Court stated that "unlike Texas," this state had "no common law marriage" so this new "exception" to the statutory exception was appropriate. This comment and the resulting exception are in derogation of the clearly stated "Rules" of Section 15007(4)(a)-(e) and is dismissive of the clear dictates of the California Supreme Court's holding in *Marvin v. Marvin*, 18 Cal 3rd 660, 684-5 (1976)

The Court's reference when crafting its new judicially created exception to Section 15007(4)(a)-(e) to avoid imposing a "common law marriage" on the relationship of Lillie Hurd

and Ralph Alexander directly violated the clear mandate of *Marvin* that men and women in California even though not married are entitled to the same rights as all people living together and co-manage and co-operate a business.

8. ERROR TO GRANT RESPONDENT ATTORNEY FEES AS THE PREVAILING PARTY IN THIS CASE

The issue of RESPONDENT'S entitlement to attorney fees, being a question of statutory interpretation, is subject to *de novo* review on appeal. (*Honey Baked Hams, Inc. v. Dickens*, 37 Cal.App.4th 421, 424 (1995), disapproved on other grounds in *Santisas v. Goodin*,17 Cal.4th 599 (1998); *Exxess Electronixx v. Heger Realty Corp.*, 64 Cal.App.4th 698, 705 (1998).)

In the United States, the prevailing litigant is ordinarily not entitled to collect a reasonable attorneys' fee from the loser." (*Alyeska Pipeline Service Co. v. Wilderness Society*, 421 U.S. 240, 247 (1975), italics added (*Alyeska Pipeline*).) This is known as the "American Rule," to distinguish it from the practice in England where "for centuries . . . there has been statutory authorization to award costs, including attorneys' fees" to the party who prevails in a lawsuit. (Ibid.; *see* Code of Civ. Proc., § 1021; 7 Witkin, Cal. Procedure (4th ed. 1997) Judgment, § 145, p. 659 [describing Code of Civil Procedure section 1021 as "the California version of the 'American rule' under which each party must pay its own legal fees"].)

PETITIONER submits that the trial court erred as a matter of law in identifying the DEFENDANT as the prevailing party when neither party in fact prevailed. (*Hsu v. Abbara*, 9 Cal.4th 863, 876 (1995).) The fact that a party's recovery in an action under a contract is less than the amount he prayed

for does not make his adversary the prevailing party within the meaning of Civil Code section 1717. (*Sukut-Coulson, Inc. v. Allied Canon Co.*, 85 Cal.App.3d 648, 650, 656 . . . .(1978).)" (*Buck v. Barb*, 147 Cal.App.3d 920, 926 (1983).) The trial court's attorney fees and costs award should be reversed.

Moreover, PETITIONER submits that the trial court erroneously apportioned costs and fees to the already-dismissed cross-action that PETITIONER prevailed on and because DEFENDANTS did not prevail under a "contract" they can not recover attorney fees. (*Sears v. Baccaglio*, 60 Cal.App.4th 1136, 1142 (1998) (*Sears*); *Damian v. Tamondong*, 65 Cal.App.4th 1115, 1126, fn. 12 (1998); *McLarand, Vasquez & Partners, Inc. v. Downey Savings & Loan Assn.*, 231 Cal.App.3d 1450, 1456 (1991); Pearl, Cal. Attorney Fee Awards, supra, § 2.3, p. 15.)

Here, DEFENDANTS did not prevail "on the contract"; neither party did. (*Santisas, supra*, 17 Cal.4th at p. 608, italics added); *Xuereb v. Marcus & Millichap, Inc.*, 3 Cal.App.4th 1338, 1341 (1992); *Sweat v. Hollister*, 37 Cal.App.4th 603, 610-611 (1995), disapproved on another ground in *Santisas, supra*, 17 Cal.4th at p. 608; *Palmer v. Shawback*, 17 Cal.App.4th 296, 299 (1993).) But there were no attorney fee provisions in the *de facto* partnership agreement. Either way, the verdict does not support the recovery of fees. It limits the fee recovery to "any action at law or in equity to enforce the provisions or rights under this Contract . . ."

Other cases also cite "arising out of" language as the basis for extending an attorney fee award provision to cover tort claims. (*See, e.g., Xuereb v. Marcus & Millichap, Inc., supra*, 3 Cal.App.4th at p. 1342 [parties agreed to fee

recovery to the prevailing party "in any 'lawsuit or other legal proceeding' to which 'this Agreement gives rise'"] Tort actions are not within the scope of a contractual provision awarding attorney fees to prevailing party.

The attorney fee award to DEFENDANTS should be reversed.

9. THE TRIAL COURT ERRONEOUSLY ISSUED TWO VERDICTS

The trial court initially issued a verdict consistent with the jury's findings. Some 2 months later after closed chambers meeting with RESPONDENTS' and counsel took place the previously entered verdict was substantially altered and then under the disguises of amended was changed and issued without notice to PETITIONER, the court issued a second substantially altered verdict which was not rendered by the jury.

10. THE CUMULATIVE EFFECT OF ERRORS DENIED PETITIONER A FAIR TRIAL

Appellant submits that the cumulative effect of all errors in this case resulted in a miscarriage of justice and on such basis the appeals courts should be ordered to take jurisdiction over the appeal, review the entire case and decide it on its merit.

PETITIONER submits that based on the totality of the circumstances, it cannot be concluded the cumulative errors identified above were harmless. The jury should have been permitted to hear admissions evidence and decide the partnership issue fully informed. The court should not have allowed a trial within a trial subjecting Petitioner to highly

prejudicial evidence of alleged but uncharged and untrue bad acts, etc. Although the jury attempted nevertheless to conduct itself as it should due to the misleading jury instructions, the jury was without proper instructions with which to do its job. The incorrect jury instructions caused the jury to rely heavily on the Respondent's expert's conclusions as to the irrelevant uncharged bad acts evidence, thus prejudicially affecting its verdict. (*Soule*, 8 Cal.4th at p. 580; *Rutherford v. Owens-Illinois, Inc.*, 16 Cal.4th 953, 983 (1997) (*Rutherford*) [instructional error in civil cases requires reversal only where it seems probable that the error prejudicially affected the verdict].)

Under the Rutherford prejudice standard, it must be taken into account "'(1) the state of the evidence, (2) the effect of other instructions, (3) the effect of counsel's arguments, and (4) any indications by the jury itself that it was misled.'" (*Rutherford*, *supra*, 16 Cal.4th at p. 983; *Soule*, 8 Cal.4th at pp. 580-581.) The determination of whether prejudice occurred due to instructional error depends heavily on the nature of the error, assessed in the context of the trial record, and it must be probable rather than merely possible that the jury's verdict was based on the incorrect instruction. (*Soule*, *supra*, at pp. 580-581 & fn. 11.) Rutherford compels a new trial in this case.

PETITIONER'S CONCLUSION

In the interest of justice and the great judicially intellectual minds of the Supreme Court Justices of this complex nation. Knowing that each Justice has his/her own method for interpreting Constitutional law and it is for this reason that I pray for equal justice under law regardless of individual constitutional theories used in opinions. Petitioner prays that all Honorable Justices will try, no matter the

difficulty, to transcend to a life that they couldn't have possibly lived as well as understand. A very small percentage of Americans today are millionaires. A much smaller percentage of Black Americans fit this profile. Petitioner has lived a rich life in every aspect of the word, so whether or not your collective ruling is in her favor, she still remains rich, in all aspects of the word. PETITIONER seeks an ORDER from the US COURTS to remand the matter back to the LOWER COURTS for settlement. Orders were not prepared for the ENTRY OF JUDGMENT on 14 June 04. This omission caused grave harm to Petitioner and all parties involved. Petitioner concludes that Justices sanction the Solano Courts for intentionally obstructing justice.

Doing this would allow a measure of justice and enable PETITIONER to prevail. Lastly, launch an investigation against the CALIFORNIA **SOLANO COUNTY JUDGES** and indictments are warranted against all of the JUDGES who participated in the **CONSPIRACY TO THWART JUSTICE and the intentional plain errors.**

Respectfully Submitted,

Lillie J. Hurd
Petitioner Pro Se

APPENDIX A

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION ONE

Case No. A108380

[Filed November 10, 2005]

LILLIE HURD	)
Plaintiff-Appellant,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants-Respondents	)
	)

Plaintiff Lillian Hurd sued defendant Ralph Alexander, her former cohabitant, under *Marvin v. Marvin* (1976) 18 Cal.3d 660.[1] She alleged breach of an oral contract to form a partnership to acquire real property and breach of an oral contract for her to receive one-half of defendant's contracting business. She alleged other causes of action including quantum meruit and fraud and deceit. After a lengthy jury

[1] It is unclear whether other named defendants who appear in various captions were in fact defendants below. In any case it does not matter for the disposition of this appeal.

trial, the jury returned a special verdict rejecting plaintiff's claims, finding there were no oral contracts and no breaches thereof, that defendant committed no fraud and that plaintiff performed services during cohabitation without expectation of compensation.

We lack jurisdiction over this appeal because plaintiff's notice of appeal is untimely. Accordingly, we are constrained to dismiss this appeal.

On June 14, 2004, the jury returned its special verdict.[2] On June 15, the trial court entered a judgment on the special verdict, which repeated the special verdict verbatim and decreed judgment for defendant and that plaintiff take nothing. This was an appealable judgment.

On June 25, the clerk mailed a notice of entry of judgment. This triggered the 60-day period for the filing of a timely notice of appeal. (Cal. Rules of Court, rule 2(a)(1).)

Also on June 25, defendant filed a memorandum of costs, seeking costs in the amount of $25,031.61 – but not attorneys' fees.

On August 20, the trial court entered an amended judgment on the special verdict. The amended judgment is identical to the judgment entered on June 15, except that it added the sentence, "Defendant Ralph Alexander is awarded costs in the sum of $25,008.61."

On or about August 25, the 60-day period for the filing of a timely notice of appeal from the June 15 judgment expired.

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[2] Subsequent dates are in 2004.

On September 7, the clerk served notice of entry of the August 20 amended judgment.

On October 27, more than 60 days from June 25, but within 60 days of September 7, plaintiff filed her notice of appeal.

The time limit for the timeliness of a notice of appeal is mandatory and appellate courts do not have jurisdiction to consider an untimely appeal. *(Laraway v. Pasadena Unified School Dist.* (2002) 98 Cal.App.4th 579, 582 *(Laraway); UAP-Columbus JV 326132 v. Nesbitt* (1991) 234 Cal.App.3d 1028, 1034 (*UAP*).)

The June 15 judgment is a final, appealable order because it disposed of all the issues between the parties – i.e., "no further judicial action by the court [was] essential to the final determination of the rights of the parties to the action." *(UAP, supra,* 234 Cal.App.3d at 1035; see *Laraway, supra,* 98 Cal.App.4th at 583.) The fact that the June 15 judgment did not award costs "had no effect on the fact that, in and of itself, it was a final appealable order." *(Laraway, supra,* at p. 582, fn. 3; see 9 Witkin, Cal. Procedure (4th ed. 2005 Supp.) § 474, p. 126 [amended judgment must make substantial modification to restart appeal period].) And cost awards "are commonly taken care of by . . . separately appealable postjudgment orders. [Citation.]" *(Laraway, supra,* at p. 582, fn. 3.)

The subsequent August 20 amended judgment that merely awarded costs, did not render the June 15 judgment interlocutory and thus nonappealable. The rights of the parties had been finally determined by the June 15 judgment. *(Laraway, supra,* 98 Cal.App.4th at p. 583; *UAP, supra,* 234 Cal.App.3d at pp. 1035-1036.)

Once the June 15 judgment was entered and the clerk sent a notice of entry, the 60-day period for a timely notice of appeal began to run. The period was not restarted simply because the trial court filed an amended judgment, repeating the text of its June 15 judgment and adding a one-sentence cost award. (See *Laraway, supra,* 98 Cal.App.4th at p. 583.)

Thus, plaintiff's notice of appeal was untimely as to the June 15 judgment. It is timely only as to the August 20 cost award, which plaintiff does not challenge. We have no jurisdiction to consider this appeal. We note that defendant raised the issue of the untimeliness of the notice of appeal in his respondent's brief, and plaintiff did not address it in her reply brief.

The appeal is dismissed.

Marchiano, P.J.

We concur:

Swager, J.

Margulies, J.

APPENDIX B

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION ONE

Case No. A108380

[Filed December 2, 2005]

LILLIE HURD	)
Plaintiff-Appellant,	)
v.	)
	)
RALPH ALEXANDER,	)
Defendant-Respondent	)
	)

BY THE COURT: We dismissed this appeal because the notice of appeal was untimely. As we set forth in our order of dismissal, plaintiff had to file a timely notice of appeal from the judgment entered June 15, 2004, not the amended judgment entered August 20, 2004. (See *Laraway v. Pasadena Unified School Dist.* (2002) 98 Cal.App.4th 579, 582, fn. 3, 583; *UAP-Columbus JV 326132 v. Nesbitt* (1991) 234 Cal.App.3d 1028, 1035-1036.) Thus, as we set forth in our order of dismissal, plaintiff had to file her notice of appeal on or about August 25, 2004. She did not file her notice of appeal until October 27, 2004.

We again note that the issue of timeliness of the notice of appeal was raised by defendant in his respondent's brief, but plaintiff did not address it in her reply brief.

Plaintiff now petitions for rehearing, arguing the time for filing a timely notice of appeal was extended by her filing (1) a motion for new trial (which was denied), and (2) a motion for reconsideration of the order denying the new trial.

Neither of these motions was discussed by either party in the briefs, but we were aware of them when we filed our dismissal order.

The motion for new trial was filed June 30, 2004. This extended the time for filing the notice of appeal until 30 days after service of the order denying the motion or notice of entry of that order. (Cal. Rules of Court, rule 3(a)(l).) Here the trial court denied the motion for new trial in open court, with plaintiff present and thus receiving notice of the order, on August 5. Plaintiff's actual notice of the order is akin to notice of entry, and triggered the 30-day period. *(Cf. Kleefeld v. Superior Court* (1994) 25 Cal.App.4th 1680, 1683 [summary judgment statute has jurisdictional time period for filing writ petition, triggered by notice of entry of the order; there was no notice of entry; counsel found copy of order in court's file, and thus had actual notice; actual notice triggered jurisdictional time period].) Thus. plaintiff had until on or about September 5, 2004 to file her notice of appeal.

Plaintiff contends that her motion for reconsideration of the new trial denial further extended her time to file a timely notice of appeal from the judgment, by virtue of California Rules of Court, rule 3(d). But rule 3(d) applies only to motions to reconsider *appealable* orders. An order denying a new trial is *not* an appealable order under Code of Civil

Procedure section 904.1. (9 Witkin, California Procedure (4th ed. 1997) Appeal § 123. p. 188; *Fogo v. Cutter Laboratories. Inc.* (1977) 68 Cal.App.3d 744, 748-749.) Thus rule 3(d) did not further extend plaintiff's time to file a notice of appeal beyond September 5, 2004.

The notice of appeal is untimely.

The petition for rehearing is denied.

Date: Dec. 2, 2005 /s/
P.J.

APPENDIX C

IN THE SUPREME COURT OF CALIFORNIA

Case No. S139765

[Filed January 25, 2006]

LILLIE HURD	)
Plaintiff-Appellant,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendant-Respondent	)
	)

En Banc

Petition for review DENIED.

Chin, J., was absent and did not participate.

/s/ George
Chief Justice

APPENDIX D

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SOLANO
CIVIL - UNLIMITED JURISDICTION**

Case No. FCS014147

[Filed July 6, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

**ORDER GRANTING MOTION
FOR JUDGMENT OF NONSUIT**

The Motion of Cross-Defendant Lillie Hurd for an Order Granting Judgment of Nonsuit pursuant to Code of Civil Procedure section 581c(a) after cross-complainants Ralph Alexander and Marjorie Alexander's presentation of evidence was heard by the Court on June 9, 2004. Cross-defendant was represented by counsel Martin J. Ambacher, Esq.; cross-complainants were represented by counsel Glen DeRonde, Esq.

Cross-complainants having rested their case and good cause for an order for judgment of nonsuit having been shown in that the causes of action (intentional infliction of emotional distress, invasion of privacy, and defamation (slander)) tried to the jury are procedurally barred by the one year statute of limitations pursuant to the applicable Code of Civil Procedure section 340:

IT IS ORDERED, ADJUDGED, AND DECREED that the Motion of cross-defendant is granted, that cross-complainants take nothing by the cross-complaint on file herein, that this Order shall operate as an adjudication on the merits, and that cross-defendant may recover statutorily recoverable costs pursuant to properly filed Memorandum of Costs.

Dated: Jun. 30 2004

/s/ Harry Kinnicutt
The Honorable Harry Kinnicutt
Judge of the Solano County
Superior Court

Approved as to form:

/s/ Glen DeRonde
Glen DeRonde, Esq.
Attorney for Cross-Complainants
Ralph and Margorie Alexander

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated June 10, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Court Reporter - Debbie Whitney
Courtroom Clerk - Michelle Bence
Defendant - Ralph Alexander
Defendant - Ralph Alexander & Son Company
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt
Plaintiff's Attorney - Clinton A. Johnson

On Calendar for: JURY TRIAL

Minutes:

Now come the parties and their respective counsel to the Bar of this Court and continue wit the jury trial in this matter.

Out of the presence of the jury, the Court and counsel discuss jury instructions.

At 1:30 p.m. the jury is present and properly seated.

The Court explains to the jury that attorney Ambacher is no longer involved in this case and that the cross complaint is no longer before the jury to decide.

Plaintiff's counsel, Clinton Johnson presents closing arguments to the jury.

Defense counsel, Glen DeRonde presents his closing arguments to the jury.

Plaintiff's counsel, Clinton Johnson presents his final closing arguments.

At 3:45 p.m. the Court admonishes the jury and adjourns this matter until Monday, 6-14-04. Jurors to return back at 9:30 a.m. Counsel to return back at 9:00.

Out of the presence of the jury, the Court and counsel discuss the special verdict form and exhibits.

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated June 14, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Court Reporter - Debbie Whitney
Courtroom Clerk - Michelle Bence
Defendant - Ralph Alexander
Defendant - Ralph Alexander & Son Company
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt
Plaintiff's Attorney - Clinton A. Johnson

On Calendar for: JURY TRIAL

Minutes:

Now come the parties and their respective counsel to the Bar of this Court and continue with the jury trial in this matter.

All jurors are present and properly seated.

Instructions are read to the jury by the Court.

At 10:40 a.m. the jury retires to the Jury Room to commence with their deliberations.

At 3:30 p.m. the jury return back to the court room with their verdicts in favor of the defendant.

Plaintiff requests a poll of the jury whereupon the jury is polled as follows:

Section A. Contract: As to Question No. 1 and Question No. 2, the poll is 10-2 in favor of the verdict.

Section B. Reasonable Value of Services Rendered: As to Question No. 1 and Question No. 2, the poll is unanimous in favor of the verdict.

Section C. Fraud. Concealment: As to Question No. 1, the poll is 11-1 in favor of the verdict.

Section D. False Promise: As to Question No. 1, the poll is 11-1 in favor of the verdict.

The Court thanked and excused the jury.

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated July 30, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Arbitrator - Jeffrey A. Harper
Cross Defendant - Lillie J. Hurd
Defendant - Ralph Alexander
Defendant - Ralph Alexander & Son Company
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt
Objector - O'Dell Hurd
Plaintiff - Lillie J. Hurd
Plaintiff's Attorney - Martin Jeffrey Ambacher
Referee/Special Master - Robert Murray

On Calendar for: TRIAL CALLING

Minutes:

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated August 3, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Arbitrator - Jeffrey A. Harper
Cross Defendant - Lillie J. Hurd
Defendant - Ralph Alexander
Defendant - Ralph Alexander & Son Company
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt
Objector - O'Dell Hurd
Plaintiff - Lillie J. Hurd
Plaintiff's Attorney - Martin Jeffrey Ambacher
Referee/Special Master - Robert Murray

On Calendar for: JURY TRIAL

Minutes:

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated August 4, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Arbitrator - Jeffrey A. Harper
Cross Defendant - Lillie J. Hurd
Defendant - Ralph Alexander
Defendant - Ralph Alexander & Son Company
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt
Objector - O'Dell Hurd
Plaintiff - Lillie J. Hurd
Plaintiff's Attorney - Martin Jeffrey Ambacher
Referee/Special Master - Robert Murray

On Calendar for: JURY TRIAL

Minutes:

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated August 5, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Court Reporter - Debbie Whitney
Courtroom Clerk - Michelle Bence
Defendant - Ralph Alexander
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt
Plaintiff's Attorney - In Proper

On Calendar for: MOTION FOR A NEW TRIAL

Minutes:

Case Called.

With regards to the 170.1 C.C.P. received from Ms. Hurd 8-4-04, the Court finds that it is untimely, therefore it is stricken.

Re: Motion for New Trial

Statements were made to the Court by Ms. Hurd, attorney DeRonde submits the matter.

The Court denies the Motion for New Trial.

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated August 5, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Arbitrator - Jeffrey A. Harper
Cross Defendant - Lillie J. Hurd
Defendant - Ralph Alexander
Defendant - Ralph Alexander & Son Company
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt
Objector - O'Dell Hurd
Plaintiff - Lillie J. Hurd
Plaintiff's Attorney - Martin Jeffrey Ambacher
Referee/Special Master - Robert Murray

On Calendar for: JURY TRIAL

Minutes:

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated August 6, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Arbitrator - Jeffrey A. Harper
Cross Defendant - Lillie J. Hurd
Defendant - Ralph Alexander
Defendant - Ralph Alexander & Son Company
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt
Objector - O'Dell Hurd
Plaintiff - Lillie J. Hurd
Plaintiff's Attorney - Martin Jeffrey Ambacher
Referee/Special Master - Robert Murray

On Calendar for: JURY TRIAL

Minutes:

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated August 10, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Arbitrator - Jeffrey A. Harper
Cross Defendant - Lillie J. Hurd
Defendant - Ralph Alexander
Defendant - Ralph Alexander & Son Company
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt
Objector - O'Dell Hurd
Plaintiff - Lillie J. Hurd
Plaintiff's Attorney - Martin Jeffrey Ambacher
Referee/Special Master - Robert Murray

On Calendar for: JURY TRIAL

Minutes:

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated August 11, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Arbitrator - Jeffrey A. Harper
Cross Defendant - Lillie J. Hurd
Defendant - Ralph Alexander
Defendant - Ralph Alexander & Son Company
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt
Objector - O'Dell Hurd
Plaintiff - Lillie J. Hurd
Plaintiff's Attorney - Martin Jeffrey Ambacher
Referee/Special Master - Robert Murray

On Calendar for: JURY TRIAL

Minutes:

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated August 12, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Arbitrator - Jeffrey A. Harper
Cross Defendant - Lillie J. Hurd
Defendant - Ralph Alexander
Defendant - Ralph Alexander & Son Company
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt
Objector - O'Dell Hurd
Plaintiff - Lillie J. Hurd
Plaintiff's Attorney - Martin Jeffrey Ambacher
Referee/Special Master - Robert Murray

On Calendar for: JURY TRIAL

Minutes:

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated August 13, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Arbitrator - Jeffrey A. Harper
Cross Defendant - Lillie J. Hurd
Defendant - Ralph Alexander
Defendant - Ralph Alexander & Son Company
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt
Objector - O'Dell Hurd
Plaintiff - Lillie J. Hurd
Plaintiff's Attorney - Martin Jeffrey Ambacher
Referee/Special Master - Robert Murray

On Calendar for: JURY TRIAL

Minutes:

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated August 17, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Arbitrator - Jeffrey A. Harper
Cross Defendant - Lillie J. Hurd
Defendant - Ralph Alexander
Defendant - Ralph Alexander & Son Company
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt
Objector - O'Dell Hurd
Plaintiff - Lillie J. Hurd
Plaintiff's Attorney - Martin Jeffrey Ambacher
Referee/Special Master - Robert Murray

On Calendar for: JURY TRIAL

Minutes:

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated August 18, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Arbitrator - Jeffrey A. Harper
Cross Defendant - Lillie J. Hurd
Defendant - Ralph Alexander
Defendant - Ralph Alexander & Son Company
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt
Objector - O'Dell Hurd
Plaintiff - Lillie J. Hurd
Plaintiff's Attorney - Martin Jeffrey Ambacher
Referee/Special Master - Robert Murray

On Calendar for: JURY TRIAL

Minutes:

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Dated October 21, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

MINUTE ORDER - CIVIL

Appearances:
Court Reporter - Debbie Whitney
Courtroom Clerk - Michelle Bence
Defendant's Attorney - Glen Andrew DeRonde
Judge - Harry S. Kinnicutt

On Calendar for: MOTION FOR RECONSIDERATION

Minutes:

Case called.

Re: Motion for Reconsideration filed by Plaintiff.

Ms. Hurd has failed to appear for today's hearing, and the Court did not receive notice that she would not be appearing today.

Attorney DeRonde submits this matter.

The Court confirms and adopts the following tentative ruling as the Order of this Court:

Tentative Ruling:

Plaintiff's Motion for Reconsideration is denied. Plaintiff has not established any new or different facts, circumstances, or law as required under Code of Civil Procedure 1008 for the Court to reconsider her Motion for New Trial or her challenge of Judge Kinnicutt.

The Court hereby places Plaintiff Lillie Hurd on notice that her continued untruthful charges that the Court is dishonest or has engaged in misconduct, or that the Court has committed criminal acts, or has acted in a vicious, malicious, sadistic, inhumane, racist, or outrageous manner is contemptuous. The Court has attempted to be patient with Plaintiff and her earlier contemptuous statements due to her pro se status and obvious personal dissatisfaction with the outcome of this litigation. However, enough is enough, and should Plaintiff continue with any similar conduct, it may well result in a contempt citation.

Attorney DeRonde shall prepare the Order.

APPENDIX E

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO
DEPARTMENT THREE

Case No. FCS014147

[Filed June 14, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

SPECIAL VERDICT

A. Contract

1. Do you find by clear and convincing evidence that Ralph Alexander and Lillie Hurd entered into an oral or implied in fact contract?

_____(Yes) ____✓____(No)

2. Did Ralph Alexander breach the contract?

_____(Yes) ____✓____(No)

3. If your answer is "yes," state the date that Ralph Alexander breached the oral contract.

_____

4. If you answered question No. 3 by filling in a date that is prior to January 27, 1998, go to Section B. If not, answer question No. 5 of this section.

5. What damages, if any, did Lillie Hurd sustain as a result of the breach?

$_____
(Amount)

6. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

B. Reasonable Value of Services Rendered

If you awarded damages to Lillie Hurd in Section A, do not complete this section.

If you did not award damages in that section, answer the following questions:

1. Did Lillie Hurd provide service to Ralph Alexander from which he derived a benefit?

   ____✓____(Yes) ____-____(No)

   If your answer is "No," answer no more questions in this section and go to Section C.

   If your answer is "Yes," answer Question No. 2.

2. Did Lillie Hurd have the expectation while such services were performed, that compensation would be made?

   ____-____(Yes) ____✓____(No)

   If your answer is "No," answer no more questions in this section and go to Section C.

   If your answer is "Yes," answer question No. 3.

3. Were such services performed by Lillie Hurd intended to be gratuitous?

   ____-____(Yes) ____-____(No)

   If your answer is "No," answer no more questions in this section and go to Section C.

   If your answer is "Yes," answer question No. 4.

4. Were such services provided by Lillie Hurd intended to be performed by her in equal exchange for services, food, clothing, shelter and other amenities furnished by Ralph Alexander to Lillie Hurd?

_____(Yes) _____(No)

If your answer is "Yes," answer no more questions in this section and go to Section C.

If your answer is "No," go to question No. 5.

5. Did Lillie Hurd reasonably expect payment for such services more than two years prior to January 27, 2000?

_____(Yes) _____(No)

If your answer is "Yes," answer question No. 6 only.

If your answer is "No," answer question No. 7 only.

6. What did you find to be the value of the services provided by Lillie Hurd to Ralph Alexander, less any other compensation provided to Lillie Hurd by Ralph Alexander, during the two years prior to January 27, 2000?

$_____

(Amount)

7. What did you find to be the value of the services provided by Lillie Hurd to Ralph Alexander, less any other compensation provided to Lillie Hurd by Ralph Alexander, throughout the time she worked with him?

$_____$
(Amount)

8. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

C. Fraud: Concealment

1. Did Ralph Alexander intentionally fail to disclose an important fact that Lillie Hurd did not know and could not reasonably have discovered?

_____(Yes) __✓__(No)

If your answer is "Yes," then answer question No. 2.

If your answer is "No," stop here, answer no further questions in this section, and have the jury foreperson sign and date this form.

2. Did Ralph Alexander intend to deceive Lillie Hurd by concealing the fact?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 3.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

3. Did Lillie Hurd rely on Ralph Alexander's deception, and was such reliance reasonable under the circumstances?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 4.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

4. Was Ralph Alexander's concealment a substantial factor in causing harm to Lillie Hurd?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 5.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

/s/ Cecil E. Rider

5. What are Lillie Hurd's damages?

$_____
(Amount)

6. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

D. False Promise

1. Did Ralph Alexander make a promise to Lillie Hurd that was important to the transaction?

_____(Yes) __✓__(No)

If your answer is "Yes," then answer question No. 2.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

2. Did Ralph Alexander intend to perform this promise when he made it?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 3.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

3. Did Ralph Alexander intend that Lillie Hurd rely on this promise?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 4.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

4. Did Lillie Hurd reasonably rely on this promise?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 5.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

5. Did Ralph Alexander perform the promised act?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 6.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

6. Was Lillie Hurd's reliance on Ralph Alexander's promise a substantial factor in causing harm to Lillie Hurd?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 7.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

7. What are Lillie Hurd's damages?

$_____
(Amount)

8. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

Dated: June 14, 2004

/s/ Cecil E. Rider

APPENDIX F

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO
DEPARTMENT THREE

Case No. FCS014147

[Filed June 15, 2004]

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

JUDGMENT ON SPECIAL VERDICT

This action came on regularly for trial on Tuesday, June 1, 2004, continued day to day through Thursday, June 10, 2004, and resumed on Monday, June 14, 2004, in Department Three of the Superior Court, the Honorable Harry S. Kinnicutt, Judge presiding.

Plaintiff Lillie J. Hurd appeared in person and with her attorney, Clinton A. Johnson. Defendant Ralph Alexander, appeared in person and with his attorney, Glen A. DeRonde. Cross-defendant, Lillie J. Hurd, appeared in person and with her attorney, Martin J. Ambacher. A jury of 12 persons was

regularly impaneled and sworn. Witnesses were sworn and testified. After hearing the evidence and arguments of counsel, the jury was duly instructed by the Court and the cause was submitted to the jury with directions to return a special verdict. The jury deliberated and thereafter, returned into court on June 14, 2004, with its verdict consisting of the special issues submitted to the jury, which said verdict was in words and figures as follows, to wit:

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO
DEPARTMENT THREE

Case No. FCS014147

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

SPECIAL VERDICT

A. Contract

1. Do you find by clear and convincing evidence that Ralph Alexander and Lillie Hurd entered into an oral or implied in fact contract?

_____(Yes) ____✓____(No)

2. Did Ralph Alexander breach the contract?

_____(Yes) _____✓_____(No)

3. If your answer is "yes," state the date that Ralph Alexander breached the oral contract.

_____

4. If you answered question No. 3 by filling in a date that is prior to January 27, 1998, go to Section B. If not, answer question No. 5 of this section.

5. What damages, if any, did Lillie Hurd sustain as a result of the breach?

$_____
(Amount)

6. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

B. Reasonable Value of Services Rendered

If you awarded damages to Lillie Hurd in Section A, do not complete this section.

If you did not award damages in that section, answer the following questions:

1. Did Lillie Hurd provide service to Ralph Alexander from which he derived a benefit?

   ____✓____(Yes) ____(No)

   If your answer is "No," answer no more questions in this section and go to Section C.

   If your answer is "Yes," answer Question No. 2.

2. Did Lillie Hurd have the expectation while such services were performed, that compensation would be made?

   ____(Yes) ____✓____(No)

   If your answer is "No," answer no more questions in this section and go to Section C.

   If your answer is "Yes," answer question No. 3.

3. Were such services performed by Lillie Hurd intended to be gratuitous?

   ____(Yes) ____(No)

If your answer is "No," answer no more questions in this section and go to Section C.

If your answer is "Yes," answer question No. 4.

4. Were such services provided by Lillie Hurd intended to be performed by her in equal exchange for services, food, clothing, shelter and other amenities furnished by Ralph Alexander to Lillie Hurd?

_____(Yes) _____(No)

If your answer is "Yes," answer no more questions in this section and go to Section C.

If your answer is "No," go to question No. 5.

5. Did Lillie Hurd reasonably expect payment for such services more than two years prior to January 27, 2000?

_____(Yes) _____(No)

If your answer is "Yes," answer question No. 6 only.

If your answer is "No," answer question No. 7 only.

6. What did you find to be the value of the services provided by Lillie Hurd to Ralph Alexander, less any other compensation provided to Lillie Hurd by Ralph Alexander, during the two years prior to January 27, 2000?

$_____

(Amount)

7. What did you find to be the value of the services provided by Lillie Hurd to Ralph Alexander, less any other compensation provided to Lillie Hurd by Ralph Alexander, throughout the time she worked with him?

$_____
(Amount)

8. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

C. Fraud: Concealment

1. Did Ralph Alexander intentionally fail to disclose an important fact that Lillie Hurd did not know and could not reasonably have discovered?

_____(Yes) ____✓____(No)

If your answer is "Yes," then answer question No. 2.

If your answer is "No," stop here, answer no further questions in this section, and have the jury foreperson sign and date this form.

2. Did Ralph Alexander intend to deceive Lillie Hurd by concealing the fact?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 3.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

3. Did Lillie Hurd rely on Ralph Alexander's deception, and was such reliance reasonable under the circumstances?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 4.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

4. Was Ralph Alexander's concealment a substantial factor in causing harm to Lillie Hurd?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 5.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form. (Emphasis added.)

[Pursuant to court order, during deliberation jurors were instructed as follows:

"Please disregard lines 23 and 23 ½ [italicized above] on page 5. The correct language is as follows:

"If your answer is "No," answer no-further questions under this section. Go to page 6 and answer D. False Promise questions."]

5. What are Lillie Hurd's damages?

$_____
(Amount)

6. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

D. False Promise

1. Did Ralph Alexander make a promise to Lillie Hurd that was important to the transaction?

_____(Yes) _____✓_____(No)

If your answer is "Yes," then answer question No. 2.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

2. Did Ralph Alexander intend to perform this promise when he made it?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 3.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

3. Did Ralph Alexander intend that Lillie Hurd rely on this promise?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 4.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

4. Did Lillie Hurd reasonably rely on this promise?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 5.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

5. Did Ralph Alexander perform the promised act?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 6.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

6. Was Lillie Hurd's reliance on Ralph Alexander's promise a substantial factor in causing harm to Lillie Hurd?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 7.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

7. What are Lillie Hurd's damages?

$_____
(Amount)

8. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

Dated: June 14, 2004

/s/ Cecil E. Rider
FOREPERSON

It appearing by reason of said special verdict that:

Defendant, Ralph Alexander, is entitled to judgment against the plaintiff, Lillie J. Hurd, and that plaintiff take nothing.

NOW THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

That defendant, Ralph Alexander, have judgment that plaintiff, Lillie J. Hurd take nothing.

Dated: June 14, 2004

/s/ Harry S. Kinnicutt
HARRY S. KINNICUTT
Judge of the Superior Court

APPENDIX G

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO
DEPARTMENT THREE

Case No. FCS014147

[Filed August 20, 2004]

LILLIE J. HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)
	)
and Related Cross-action.	)
	)

JUDGMENT ON SPECIAL VERDICT

This action came on regularly for trial on Tuesday, June 1, 2004, continued day to day through Thursday, June 10, 2004, and, resumed on Monday, June 14, 2004, in Department Three of the Superior Court, the Honorable Harry S. Kinnicutt, Judge presiding.

Plaintiff Lillie J. Hurd appeared in person and with her attorney, Clinton A. Johnson. Defendant Ralph Alexander,

appeared in person and with his attorney, Glen A. DeRonde. Cross-defendant, Lillie J. Hurd, appeared in person and with her attorney, Martin J. Ambacher. A jury of 12 persons was regularly impaneled and sworn. Witnesses were sworn and testified. After hearing the evidence and arguments of counsel, the jury was duly instructed by the Court and the cause was submitted to the jury with directions to return a special verdict. The jury deliberated and thereafter returned into court on June 14, 2004, with its verdict consisting of the special issues submitted to the jury, which said verdict was in words and figures as follows, to wit:

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO
DEPARTMENT THREE

Case No. FCS014147

LILLIE HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

SPECIAL VERDICT

A. Contract

1. Do you find by clear and convincing evidence that Ralph Alexander and Lillie Hurd entered into an oral or implied in fact contract?

_____(Yes) ___✓___(No)

2. Did Ralph Alexander breach the contract?

_____(Yes) _____✓_____(No)

3. If your answer is "yes," state the date that Ralph Alexander breached the oral contract.

_____

4. If you answered question No. 3 by filling in a date that is prior to January 27, 1998, go to Section B. If not, answer question No. 5 of this section.

5. What damages, if any, did Lillie Hurd sustain as a result of the breach?

$_____
(Amount)

6. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

B. Reasonable Value of Services Rendered

If you awarded damages to Lillie Hurd in Section A, do not complete this section.

If you did not award damages in that section, answer the following questions:

1. Did Lillie Hurd provide service to Ralph Alexander from which he derived a benefit?

   ____✓____(Yes) ____(No)

   If your answer is "No," answer no more questions in this section and go to Section C.

   If your answer is "Yes," answer Question No. 2.

2. Did Lillie Hurd have the expectation while such services were performed, that compensation would be made?

   ____(Yes) ____✓____(No)

   If your answer is "No," answer no more questions in this section and go to Section C.

   If your answer is "Yes," answer question No. 3.

3. Were such services performed by Lillie Hurd intended to be gratuitous?

   ____(Yes) ____(No)

If your answer is "No," answer no more questions in this section and go to Section C.

If your answer is "Yes," answer question No. 4.

4. Were such services provided by Lillie Hurd intended to be performed by her in equal exchange for services, food, clothing, shelter and other amenities furnished by Ralph Alexander to Lillie Hurd?

_____(Yes) _____(No)

If your answer is "Yes," answer no more questions in this section and go to Section C.

If your answer is "No," go to question No. 5.

5. Did Lillie Hurd reasonably expect payment for such services more than two years prior to January 27, 2000?

_____(Yes) _____(No)

If your answer is "Yes," answer question No. 6 only.

If your answer is "No," answer question No. 7 only.

6. What did you find to be the value of the services provided by Lillie Hurd to Ralph Alexander, less any other compensation provided to Lillie Hurd by Ralph Alexander, during the two years prior to January 27, 2000?

$_____

(Amount)

7. What did you find to be the value of the services provided by Lillie Hurd to Ralph Alexander, less any other compensation provided to Lillie Hurd by Ralph Alexander, throughout the time she worked with him?

$_____
(Amount)

8. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

C. Fraud: Concealment

1. Did Ralph Alexander intentionally fail to disclose an important fact that Lillie Hurd did not know and could not reasonably have discovered?

_____(Yes) ____✓____(No)

If your answer is "Yes," then answer question No. 2.

If your answer is "No," stop here, answer no further questions in this section, and have the jury foreperson sign and date this form.

2. Did Ralph Alexander intend to deceive Lillie Hurd by concealing the fact?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 3.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

3. Did Lillie Hurd rely on Ralph Alexander's deception, and was such reliance reasonable under the circumstances?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 4.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

4. Was Ralph Alexander's concealment a substantial factor in causing harm to Lillie Hurd?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 5.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form. (Emphasis added.)

[Pursuant to court order, during deliberation jurors were instructed as follows:

"Please disregard lines 23 and 23 ½ [italicized above] on page 5. The correct language is as follows:

"If your answer is "No," answer no further questions under this section. Go to page 6 and answer D. False Promise questions."]

5. What are Lillie Hurd's damages?

$_____
(Amount)

6. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

D. False Promise

1. Did Ralph Alexander make a promise to Lillie Hurd that was important to the transaction?

_____(Yes) _____✓_____(No)

If your answer is "Yes," then answer question No. 2.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

2. Did Ralph Alexander intend to perform this promise when he made it?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 3.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

3. Did Ralph Alexander intend that Lillie Hurd rely on this promise?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 4.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

4. Did Lillie Hurd reasonably rely on this promise?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 5.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

5. Did Ralph Alexander perform the promised act?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 6.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

6. Was Lillie Hurd's reliance on Ralph Alexander's promise a substantial factor in causing harm to Lillie Hurd?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 7.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

7. What are Lillie Hurd's damages?

$_____
(Amount)

8. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

Dated: June 14, 2004

/s/ Cecil E. Rider
FOREPERSON

It appearing by reason of said special verdict that:

Defendant, Ralph Alexander, is entitled to judgment against the plaintiff, Lillie J. Hurd, and that plaintiff take nothing. Defendant Ralph Alexander is awarded costs in the sum of $25,008.61.

NOW THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

That defendant, Ralph Alexander, have judgment that plaintiff, Lillie J. Hurd take nothing.

Dated: August 19, 2004

/s/ Harry S. Kinnicutt
HARRY S. KINNICUTT
Judge of the Superior Court

APPENDIX H

IN THE SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

[Filed September 7, 2004]

LILLIE J. HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)
	)
and Related Cross-action.	)
	)

NOTICE ON ENTRY OF AMENDED JUDGMENT OF SPECIAL VERDICT

YOU ARE HEREBY NOTIFIED, in compliance with Section 664.5 of the Code of Civil Procedure, that the Amended Judgment in the above-entitled action was entered on August 20, 2004.

On the date stated below, I mailed (by first-class mail or airmail, postage prepaid) a copy of this Notice of Entry of Judgment to the persons entitled thereto, addressed as follows:

CLINTON A. JOHNSON, ESQ.
The Leamington Firm, Suite 506
1814 Franklin Street
Oakland, CA 94612-3533

MARTIN J. AMBACHER
McNamara, Dodge, Nye, Beatty, Slattery & Pfalzer
1211 Newell Avenue
Walnut Creek, CA 94596-5331

LILLIE HURD
160 Elna Drive
Vallego, CA 94590

Dated: Sept. 7, 2004

/s/ Lorraine C. Piazza

APPENDIX I

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO
UNLIMITED CIVIL JURISDICTION

Case No. FCS014147

[Filed May 7, 2006]

LILLIE J. HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER,	)
ALEXANDER & SON COMPANY	)
and MARJORIE ALEXANDER,	)
Defendants.	)
	)

NOTICE OF ENTRY OF JUDGMENT

TO: Plaintiff, LILLIE HURD:

NOTICE IS HEREBY GIVEN that the court entered its "Second Amended Judgment of Special Verdict" in the above-entitled matter on May 2, 2006, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

Dated: 5-7-06

/s/ Glen A DeRonde
GLEN A. DERONDE
Attorney for Defendants

PROOF OF SERVICE BY MAIL
(Code Civ Proc, Sections 1013a, 2015.5)

Hurd v. Alexander, et al.
Solano County Superior Court Case No. FCS014147

I declare that:

I am employed in the County of Solano, State of California. I am over the age of 18 years and not a party of the within entitled cause. My business address is Law Offices of Glen A. DeRonde, 460 Union Avenue, Suite B, Fairfield, California 94533. I am readily familiar with the firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business.

On May 8, 2006, I served the within Notice of Entry of Judgment on the interested parties in said cause by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, placing the envelope in the mail collection tray at the Law Offices of Glen A. DeRonde for collection and mailing on that date following ordinary business practice for deposit in the United States Postal Service at Fairfield, California, addressed as follows:

LILLIE HURD
160 Elna Drive
Vallejo, CA 94591

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed on May 8, 2006, at Fairfield, California.

/s/ Patricia J. Brazil

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO
DEPARTMENT THREE

Case No. FCS014147

[Filed May 2, 2006]

LILLIE J. HURD Plaintiff, v. RALPH ALEXANDER, et al. *Defendants.* and Related Cross-action.	)

SECOND AMENDED JUDGMENT ON SPECIAL VERDICT

This action came on regularly for trial on Tuesday, June 1, 2004, continued day to day through Thursday, June 10, 2004, and resumed on Monday, June 14, 2004, in Department Three of the Superior Court, the Honorable Harry S. Kinnicutt, Judge presiding.

Plaint[illegible]illie J. Hurd appeared in person and with her attorney, Clinton A. Johnson. Defendant Ralph Alexander, appeared in person and with his attorney, Glen A. DeRonde. Cross-defendant, Lillie J. Hurd, appearedin person and with her attorney, Martin J. Ambacher. A jury of 12 persons was regularly impaneled and sworn. Witnesses were sworn and testified. After hearing the evidence and arguments of counsel, the jury was duly instructed by the Court and the cause was submitted to the jury with directions to return a special verdict. The jury deliberated and thereafter returned into court on June 14, 2004, with its verdict consisting of the special issues submitted to the jury, which said verdict was in words and figures as follows, to wit:

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO
DEPARTMENT THREE

Case No. FCS014147

LILLIE HURD)
Plaintiff,)
v.)
)
RALPH ALEXANDER, et al.)
Defendants.)
)

SPECIAL VERDICT

A. Contract

1. Do you find by clear and convincing evidence that Ralph Alexander and Lillie Hurd entered into an oral or implied in fact contract?

   _____(Yes) _____✓_____(No)

2. Did Ralph Alexander breach the contract?

   _____(Yes) _____✓_____(No)

3. If your answer is "yes," state the date that Ralph Alexander breached the oral contract.

   _____

4. If you answered question No. 3 by filling in a date that is prior to January 27, 1998, go to Section B. If not, answer question No. 5 of this section.

5. What damages, if any, did Lillie Hurd sustain as a result of the breach?

   $_____
   (Amount)

6. Plaintiff Lillie Hurd is barred from recovering damages because of the:

   -statements and conduct defense.

   _____(No) _____(Yes)

   -unconscionable conduct defense.

   _____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

B. Reasonable Value of Services Rendered

If you awarded damages to Lillie Hurd in Section A, do not complete this section.

If you did not award damages in that section, answer the following questions:

1. Did Lillie Hurd provide service to Ralph Alexander from which he derived a benefit?

_____✓_____(Yes) _____(No)

If your answer is "No," answer no more questions in this section and go to Section C.

If your answer is "Yes," answer Question No. 2.

2. Did Lillie Hurd have the expectation while such services were performed, that compensation would be made?

_____(Yes) _____✓_____(No)

If your answer is "No," answer no more questions in this section and go to Section C.

If your answer is "Yes," answer question No. 3.

3. Were such services performed by Lillie Hurd intended to be gratuitous?

_____(Yes) _____(No)

If your answer is "No," answer no more questions in this section and go to Section C.

If your answer is "Yes," answer question No. 4.

4. Were such services provided by Lillie Hurd intended to be performed by her in equal exchange for services, food, clothing, shelter and other amenities furnished by Ralph Alexander to Lillie Hurd?

_____(Yes) _____(No)

If your answer is "Yes," answer no more questions in this section and go to Section C.

If your answer is "No," go to question No. 5.

5. Did Lillie Hurd reasonably expect payment for such services more than two years prior to January 27, 2000?

_____(Yes) _____(No)

If your answer is "Yes," answer question No. 6 only.

If your answer is "No," answer question No. 7 only.

6. What did you find to be the value of the services provided by Lillie Hurd to Ralph Alexander, less any other compensation provided to Lillie Hurd by Ralph

Alexander, during the two years prior to January 27, 2000?

$_____
(Amount)

7. What did you find to be the value of the services provided by Lillie Hurd to Ralph Alexander, less any other compensation provided to Lillie Hurd by Ralph Alexander, throughout the time she worked with him?

$_____
(Amount)

8. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

C. Fraud: Concealment

1. Did Ralph Alexander intentionally fail to disclose an important fact that Lillie Hurd did not know and could not reasonably have discovered?

_____(Yes) _____✓_____(No)

If your answer is "Yes," then answer question No. 2.

If your answer is "No," stop here, answer no further questions in this section, and have the jury foreperson sign and date this form.

2. Did Ralph Alexander intend to deceive Lillie Hurd by concealing the fact?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 3.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

3. Did Lillie Hurd rely on Ralph Alexander's deception, and was such reliance reasonable under the circumstances?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 4.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

4. Was Ralph Alexander's concealment a substantial factor in causing harm to Lillie Hurd?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 5.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form. (Emphasis added.)

[Pursuant to court order, during deliberation jurors were instructed as follows:

"Please disregard lines 23 and 23 ½ [italicized above] on page 5. The correct language is as follows:

"If your answer is "No," answer no further questions under this section. Go to page 6 and answer D. False Promise questions."]

5. What are Lillie Hurd's damages?

$_____
(Amount)

6. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

D. False Promise

1. Did Ralph Alexander make a promise to Lillie Hurd that was important to the transaction?

_____(Yes) ___✓___(No)

If your answer is "Yes," then answer question No. 2.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

2. Did Ralph Alexander intend to perform this promise when he made it?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 3.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

3. Did Ralph Alexander intend that Lillie Hurd rely on this promise?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 4.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

4. Did Lillie Hurd reasonably rely on this promise?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 5.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

5. Did Ralph Alexander perform the promised act?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 6.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

6. Was Lillie Hurd's reliance on Ralph Alexander's promise a substantial factor in causing harm to Lillie Hurd?

_____(Yes) _____(No)

If your answer is "Yes," then answer question No. 7.

If your answer is "No," stop here, answer no further questions, and have the jury foreperson sign and date this form.

7. What are Lillie Hurd's damages?

$_____
(Amount)

8. Plaintiff Lillie Hurd is barred from recovering damages because of the:

-statements and conduct defense.

_____(No) _____(Yes)

-unconscionable conduct defense.

_____(No) _____(Yes)

-waiver defense.

_____(No) _____(Yes)

Dated: June 14, 2004

/s/ Cecil E. Rider
FOREPERSON

It appearing by reason of said special verdict that:

Defendant, Ralph Alexander, is entitled to judgment against the plaintiff, Lillie J. Hurd, and that plaintiff take nothing. Defendant Ralph Alexander is awarded costs in the sum of $25,008.61.

Defendant Ralph Alexander is further awarded costs on appeal in the sum of $2,764.30 as claimed by the Memorandum of Costs on Appeal filed on February 15, 2006.

NOW THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

That defendant, Ralph Alexander, have judgment that plaintiff, Lillie J. Hurd take nothing;

That defendant is awarded costs of trial in the sum of $25,008.61, and costs on appeal in the sum of $2,764.30.

Dated: May 1, 2006

/s/ Harry S. Kinnicutt
HARRY S. KINNICUTT
Judge of the Superior Court

APPENDIX J

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO
DEPARTMENT THREE

Case No. FCS014147

[Filed June 14, 2004]

LILLIE J. HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

JURY REQUEST

We, the jury in the above entitled action, request the following:

[Handwritten] Half of the jury feels she should get some compensation and half feels she has received all that she deserves. Are we done based on the judgment questions we have answered? Is it up to the judge to determine compensation?

This 14th day of June, 2004.

/s/ Cecil E. Rider
FOREPERSON

APPENDIX K

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO
DEPARTMENT THREE

Case No. FCS014147

[Filed June 14, 2004]

LILLIE J. HURD	)
Plaintiff,	)
v.	)
	)
RALPH ALEXANDER, et al.	)
Defendants.	)
	)

RESPONSE TO JURY REQUEST

TO THE JURORS IN THE ABOVE-ENTITLED MATTER:

The Court responds as follows to your request:

The jury needs to answer Section D. False Promise of the Special Verdict. Once the jury has answered all of the sections of the Special Verdict form, please have your foreperson date and sign the Special Verdict form and return to the courtroom.

Your last question, "Is it up to the judge to determine compensation?" This is a trial by jury. The jury answers the Special Verdict questions as instructed and damages, if any, are to be based on the Court's instructions and the facts as the jury determines them. Specifically, the judge does not award any party herein damages or any compensation.

Dated: June 14, 2004

/s/ Harry S. Kinnicutt
HARRY S. KINNICUTT
Judge of the Superior Court

APPENDIX L

LETTER FROM THE UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

June 19, 2003

Mr. Glen A. DeRonde
Attorney at Law
460 Union Avenue, Suite B
Fairfield, CA.94533

Dear Mr. DeRonde:

This is in response to your letter of March 18, 2003, regarding Ms. Lillie J. Hurd, a civil service disability retiree. You asked us to investigate Ms. Hurd's original claim of disability for which she retired from federal service in 1980 because you suspect she was not disabled as she claimed. Your belief is based on her employment with your client after her retirement.

After reviewing the documentation you supplied and looking at the retirement documents we have, we have decided not to pursue an investigation into this matter. Ms. Hurd is over 60 years of age and by our regulations no longer required to limit her income or prove her continued disability in order to be eligible for retirement benefits.

You also inquired about fomler and current OPM employees that could assist your client in his case against Ms.

Hurd. We cannot assign staff to assist you in your case nor do we have anyone we can refer you to.

We are closing our review of this matter.

Sincerely,
/s/ David B. Snell

David B. Snell, Chief
Retirement Inspection Branch

APPENDIX M

IN THE SUPERIOR COURT
APPELLATE DEPARTMENT
IN AND FOR THE COUNTY OF SOLANO

Case No. FCS014147

LILLIE J. HURD	)
Plaintiff/Appellant,	)
	)
v.	)
	)
RALPH ALEXANDER,	)
Defendant/Respondent.	)
	)

CLERK'S TRANSCRIPT
VOLUME 14 OF14
PAGES 003973-004303

Clerk's Transcript on Appeal from the Judgment jury trial.

Honorable Franklin R. Taft, Presiding
Honorable Scott L. Kays, Presiding
Honorable David Edwin Power, Presiding
Honorable Paul L. Beeman, Presiding
Honorable Harry S. Kinnicutt, Presiding
Honorable Donald L. Fretz, Presiding

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CIVIL DOCKET REPORT PRINTOUT OF FCS014147 004249

APPENDIX N

PROPERTY PROFILES & ACQUIRED PROPERTY, ASSETS FROM 1979 TO CURRENT

[FOLD-OUT EXHIBIT]

APPENDIX O

PHOTOGRAPH
DECEMBER 13, 1998

[FOLD-OUT EXHIBIT]

DATE PREPARED 12/31/2001 LILLIE J. HURD & RALPH ALEXANDER

PROPERTY PROFILES & ACQUIRED PROPERTY, ASSETS FROM 1979 TO CURRENT

(THE FIRST 6 PROPERTIES LISTED WERE ALREADY PURCHASED BY RALPH & LILLIE THE YEARS HOWEVER WHEN I TOOK OVER THE BUSINESS I MADE SUBSTANTIAL IMPROVEMENTS WITH PARTNERSHIP FUNDS ON SAID PROPERTIES , AND OTHER..)

						NET INCOME	
116 SILVERVIEW COURT	single unit	190,000	550,000	0	1,012	0	1979
1936 SUTTER STREET	4 unit	185,626	425,000	2,911	1,469	1,396	1975
CYPRESS / BEACH	vacant lot	0	80,000	0	0	0	1977
251 -267 SHASTA STREET	5 unit	195,791	450,000	3,073	1,617	1,352	1987
1119 BEACH	single unit	65,281	175,000	958	617	315	1987
724 STELLA STREET	single unit	87,500	175,000	987	716	271	1992
139 SAYWER	single unit	87,500	175,000	952	700	252	1993
1930 OHIO STREET	single unit	94,500	206,000	909	765	144	1994
1840 GRIFFIN DRIVE	single unit	87,500	175,000	942	689	249	1993
138 MCGRUE	single unit	87,500	175,000	942	689	223	1994
138 HODGES	single unit	0	175,000	942	989	223	1997
1249 CORONEL	single unit	18,000	175,000	0	0	0	1997
2003-2009 Florida (4 Unit) 120 - 134 Florida Street (7 Unit) 1908 Solano Ave (1 Unit)	12 unit	393,656	900,000	7,332	3,619	3,713	1987

* NOTE * AS OF 12/31/2001 AN ADDITIONAL $89,112.00 WAS EARNED NOT REFLECTED IN THESE FIGURES CREATED BY THE PARTNERSHIP AND APPROXIMATELY $300,000.00 OF GAMBLING DEBT RALPH BORROWED FROM THE PARTNERSHIP. 50% OF THIS IS STILL OWED TO ME

GRAND TOTAL OF ALL COLUMNS [redacted]

IRA First Bank of California		429-97-000	5,060
IRA First Bank of Pacific		429-11029-1309	12,638.59
IRA Bay View Bank		400-4135-1933	10,976.85
IRA Bay View Bank		4004-080-9964	32,432.09
Wells Fargo / P.O.A Lillie J. Hurd & Ralph Alexander		0580-074235	100,000
Bay View / General Account Ralph Alexander & Lillie J. Hurd		6000-300887-7	1,000
Bay View / Savings Acco[illegible] Ralph Alexander & Lillie J. Hurd		204-84499	12,896.66
Bay View / Property Mana[illegible]ment Ralph Alexander & Lillie J. Hurd		600-530-14387	50,000
These Items Were Purchased During The Partnership Term And The Value Of These Items To Be Equally Split	Y PURCHASED	DESCRIPTION OF VEHICLES	LIQUID CASH AS OF 12/99 — 225,004.19
	?	1962 VAN	I ONLY CLAIM REPAIRS FOR HALF OF THIS AMOUNT — 2,000
	?	1975 GMC 1/4 TRUCK	5,000
	1986	1886 420 SEL MERCEDES	Excluding The $3.7 Million In Property, There Is A Combined Total Of Approximately 950K In Cash And Assets I Was Denied, That Should Of Been Equally Split — 4,900
	1989	1989 CHEVY HEAVY DUTY T	7,000
	1990	1990 FORD VAN	4,000
	1997	1989 CHEVY HEAVY DUTY T	18,000
		EQUIPMENT/ OFFICE FURNITURE	125,000
PERSONAL PROPERTY ACQUIRED FROM 1979 TO 1/1/2001			195,000

SPECIAL NOTES

UPON FURTHER REVIEW OF DISCOVERY THESE FIGURES MAY CHANGE UP OR DOWN.

* NOTE * THERE WAS A STATE FARM LIFE INSURANCE POLICY IN THE AMOUNT OF 250,000 IN FORCE BEFORE I WAS REMOVED FROM MY HOME AND HOME OFFICE.

NOTE THERE ALSO WAS AN ACCOUNT WE OPENED AT HEART FEDERAL SAVINGS IN BOTH OF OUR NAMES THAT I PERSONALLY WOULD DEPOSIT AND TRANSFER LARGE AMOUNTS OF MONEY IN, TO COVER OUR MORTGAGES. THIS BANK IS NOW CLOSED

" EXHIBIT 4 "

PROPERTY PROFILES AND ASSETS IN DISPUTE

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APPENDIX N

IOR GERTRUDE LASLEY sits in the enclosed patio of her Florida Street residence that was refurbished by business partners Lillie Hurd and Ralph Alexander.

Times-Herald photos by David Pechter

Dec. 13, 1998

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APPENDIX O